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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,972	07/15/2003	Robert A. Matousek	12622	7832

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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
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RACINE, WI 53404

EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,972

Applicant(s)

MATOUSEK ET AL.

Examiner

Alicia M Torres

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 5, 11, 12, 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Schroeder et al., hereafter Schroeder.

3. Schroeder discloses a harvesting combine (10) comprising:

A body (unnumbered, shown at 20) including a housing having a front wall (unnumbered), and a rotary threshing assembly including a rotor (18) having a front end located in front of the front wall, a cab (unnumbered, see Figure 1) in front of and spaced apart from the front wall, and a platform (unnumbered horizontal portion connecting the cab with the body) positioned in the space between the cab and the body wherein the cab, the body, and the platform define a passageway to allow an operator to visually monitor and access the body from the platform, the passageway and the platform extending over the front end of the rotor (18); and

Wherein it appears the passageway has a width of approximately 18-20 inches, as per claim 5; and

Wherein the combine (10) includes a frame (24), the platform being attached to the frame (24), as per claim 11; and

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Wherein the platform (unnumbered horizontal line connecting the cab with the body, shown in Figure 1) is positioned above two front wheels (unnumbered) of the combine (10), as per claim 12; and

Wherein the body (at 20) includes a housing and operating equipment, as per claim 15.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Frederiksen '188, as cited by Applicant.

The device is disclosed as applied above. However, Schroeder fails to disclose wherein the cab is supported on the combine by a linkage assembly movable for moving the cab upwardly and rearwardly into the space and adjacent to the front wall, as per claim 2; and

Wherein the platform is removable to allow the cab to be positioned in the passageway above the front end of the rotor, as per claim 3.

Frederiksen discloses a displaceable cab (2) wherein the cab (2) is supported by a linkage assembly (3, 4) movable for moving the cab upwardly and rearwardly, as per claim 2; and

Wherein the platform (unnumbered, to where the ladder leads) is removable to allow the cab (2) to be positioned in the passageway, as per claim 3.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the displaceable cab of Frederiksen '188 on the combine of Schroeder in order to provide optimum visibility conditions.

6. Claims 4, 6-8 rejected under 35 U.S.C. 103(a) as being unpatentable over Schoreder and Frederiksen '188 as applied to claim 3 above, and further in view of Ensink.

The device is disclosed as applied above. However, the combination fails to disclose wherein the platform is connected to at least one side platform portion located beside the cab, the platform between the cab and the body being located at a higher elevation than the at least one side platform portion, as per claim 4; and

Wherein the platform is supported on a bridge which has a generally inverted u-shape which extends over and defines a space containing the front end of the rotor, as per claim 6; and

Wherein the bridge supports at least one step at an elevation between the platform and the at least one side platform portion, as per claim 7; and

Comprising two of the side platform portions beside opposite sides of the cab, respectively, the side platform portions and the platform together having a u-shape when viewed from above, as per claim 8.

Ensink discloses a platform wherein the platform (15) is connected to at least one side platform portion (16), the platform (15) being located at a higher elevation than the at least one side platform portion (16), as per claim 4; and

Wherein the platform (16) is supported on a bridge (platform frame) which has a generally inverted u-shape, as per claim 6; and

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Wherein the bridge (frame) supports at least one step (at 16) at an elevation between the platform (15) and the at least one side platform portion (16), as per claim 7; and

Comprising two of the side platform portions (16) beside opposite sides of the cab, respectively, the side platform portions (16) and the platform (15) together having a u-shape when viewed from above, as per claim 8.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the elevated platform portion of Ensink on the device of Schroeder and Frederiksen '188 in order to allow an operator to stand at different elevations.

7. Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder, Frederiksen '188 and Ensink as applied to claim 8 above, and further in view of Stauffer.

The device is disclosed as applied above. However, the combination fails to disclose wherein the cab includes a back wall, the back wall including a transparent window to provide the operator with enhanced visibility behind the cab.

Stauffer discloses a cab wherein the cab (10) includes a back wall (80), the back wall including a transparent window (82) to provide the operator with enhanced visibility.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the glass window of Stauffer on the device of Schroeder, Frederiksen '188 and Ensink in order to provide better visibility.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Copley et al., hereafter Copley.

Schroeder discloses the device as described above. However, Schroeder fails to disclose wherein the platform includes a railing extending upward from the platform and along an outer perimeter of the platform, as per claim 10.

Copley discloses a combine wherein the platform includes a railing (20) extending upward from the platform and along an outer perimeter of the platform, as per claim 10.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the railing of Copley on the platform of Schroeder in order to provide balance and support for the operator.

9. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Hurlburt, as cited by Applicant.

The device is disclosed as applied above. However, Schroeder fails to disclose wherein the cab includes a curved transparent front panel, as per claim 13; and

Wherein the curved transparent front panel is comprised of glass, as per claim 14.

Hurlburt discloses a combine wherein the cab (12) includes a curved transparent front panel (35), as per claim 13; and

Wherein the curved transparent front panel (35) is comprised of glass, as per claim 14.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the transparent panel of Hurlburt on the device of Schroeder in order to maximize the operator's vision.

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10. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Matousek et al., hereafter Matousek.

The device is disclosed as applied to claim 15 above. However, the Schroeder fails to disclose wherein the operating equipment includes a loop elevator assembly and a grain tank.

Matousek discloses a combine (10) including a loop elevator assembly (85) and a grain tank (20).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the operating equipment of Matousek on the combine of Schroeder in order to obtain an improved grain handling, storage, and unloading system.

11. Claims 17, 18, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder et al., hereafter Schroeder in view of Ensink.

12. In regards to claim 17, Schroeder discloses a device wherein the method for visually monitoring a harvesting combine is inherent, the combine comprising:

Providing a harvesting combine (10) including a body (unnumbered, at 20), the body including a housing and operating equipment including at least a grain tank (20), a cab (unnumbered) spaced-apart from and in front of the body, a platform (unnumbered horizontal line connecting the cab with the body, shown in Figure 1), wherein the cab, the body and the elevated back platform portion define a passageway; and

Visually monitoring the opening equipment from the elevated back platform.

However, Schroeder fails to disclose a platform including at least one side platform portion positioned beside the cab, and an elevated back platform portion connected to the side platform portion and positioned between the cab and the body at an elevation higher than the side platform portion.

Ensink discloses a platform including at least one side platform portion (16) positioned beside the cab, and an elevated back platform portion (15) connected to the side platform portion (16) and positioned at an elevation higher than the side platform portion (16).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the elevated platform portion of Ensink on the device of Schroeder in order to allow an operator to stand at different elevations.

13. In regards to claim 18, Schroeder discloses a device wherein the following method for visually monitoring a harvesting combine is inherent, the method comprising:

Providing a harvesting combine (10) including a body (at 20), the body including a housing and operating equipment including a grain tank (20), a cab (unnumbered) spaced-apart from and forwardly of the body, a platform (unnumbered horizontal line connecting the cab with the body, shown in Figure 1) positioned between the cab and the body wherein the cab, the body and the elevated back platform portion define a passageway; and

Accessing the operating equipment from the platform portion, as per claim 18.

However, Schroeder fails to disclose a platform including at least one side platform portion positioned beside the cab, and an elevated back platform portion.

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Ensink discloses a platform including at least one side platform portion (16) positioned beside the cab, and an elevated back platform portion (15).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the elevated platform portion of Ensink on the device of Schroeder in order to allow an operator to stand at different elevations.

14. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schroeder in view of Ensink as applied to claim 18 above, and further in view of Stauffer.

The device is disclosed as applied above. However, the combination fails to disclose wherein the cab includes a back wall, the back wall including a transparent window; and

Visually monitoring the operating equipment from the cab, as per claim 18; and

Wherein the transparent window is comprised of glass, as per claim 20.

Stauffer discloses a cab wherein the cab (10) includes a back wall (80), the back wall including a transparent window (82); and

visually monitoring the operating equipment from the cab (10), as per claim 19; and

wherein the transparent window (82) is comprised of glass, as per claim 20.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the glass window of Stauffer on the device of Schroeder and Ensink in order to provide better visibility.

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15. In regards to claim 21, Schroeder discloses a cab arrangement for a harvesting combine comprising:

A harvesting combine (10) including a body (at 20) having a grain tank (20), a cab (unnumbered) spaced-apart from the grain tank (20), a platform (unnumbered horizontal line connecting the cab with the body, shown in Figure 1) positioned between the cab and the grain tank (20), wherein the platform portion defines a space therebeneath containing a front end of a rotor (18) of a threshing system of the combine (10) extending forwardly of the body of the combine (10), and wherein the cab, the grain tank (20), and the platform portion define a passageway to allow an operator to visually monitor operating equipment from the higher elevation.

However, Schroeder fails to disclose a platform including side platform portions beside opposite sides of the cab, and a back platform portion at a higher elevation than the side platform portions.

Ensink discloses a platform including at least one side platform portion (16), and a back platform portion (15) at a higher elevation than the side platform portions (16).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the elevated platform portion of Ensink on the device of Schroeder in order to allow an operator to stand at different elevations.

Response to Arguments

16. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.


ROBERT E. PEZZUTO
PRIMARY EXAMINER
2/22/05